

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENTS ON BEHALF OF STUDENT,

OAH Case No. 2014120106

v.

CHICO UNIFIED SCHOOL DISTRICT,

CHICO UNIFIED SCHOOL DISTRICT,

OAH Case No. 2015030830

v.

PARENTS ON BEHALF OF STUDENT.

ORDER GRANTING STUDENT’S
MOTION TO DISMISS ISSUES

ORDER

Student filed a request for due process (complaint) on November 19, 2014, naming the Chico Unified School District. On March 12, 2015, the Office of Administrative Hearings granted Student’s unopposed motion to amend her complaint. Student’s amended complaint alleges several procedural violations of Student’s right to a free appropriate public education. Her complaint also alleges that Chico Unified substantively denied her a FAPE by failing to find her eligible and provide her with special education and related services since August 25, 2014.

Chico Unified assessed Student subsequent to the filing of her original complaint. After the assessments were completed, Student’s parents requested that Chico Unified fund independent educational evaluations for Student in the areas of speech and language, behavior, and psycho-educational. Chico Unified declined the request and instead exercised its right to file for due process to defend the validity of its assessments. Chico Unified filed its complaint on March 17, 2015, requesting that the Office of Administrative Hearings find that all six of the assessments it had administered to Student were legally valid.

On April 2, 2015, Student filed a motion to dismiss those allegations of Chico Unified’s complaint which requests that OAH validate its assessments of Student in the areas of occupational therapy, academic achievement, and health. Student contends that the Chico Unified may not raise as an issue for hearing whether those three assessments are valid

because Student has not disagreed with the assessments and has not asked Chico Unified to fund independent educational evaluations in those areas. Student therefore asserts that the issues are not ripe for adjudication and that OAH therefore has no jurisdiction to hear Chico Unified's complaint as to those three assessments.

Chico Unified filed a notice of non-opposition to Student's motion to dismiss on April 7, 2015. In its notice, Chico Unified basically agrees to Student's motion to dismiss, subject to it being able to introduce evidence of the appropriateness of its assessments of Student in the areas of occupational therapy, academic achievement, and health, where necessary to affirmatively defend itself against the allegations in Student's amended complaint.

Given Chico Unified non-opposition, Student's motion to dismiss is GRANTED. The due process hearing shall proceed only as to Chico Unified's contention that its speech and language, behavioral, and psycho-educational assessments are legally valid such that it is not required to fund at public expense the independent educational evaluations in those three areas as requested by Student's parents.¹

IT IS SO ORDERED.

DATE: April 10, 2015

/s/

DARRELL LEPKOWSKY
Administrative Law Judge
Office of Administrative Hearings

¹ This Order makes no finding as to whether Chico Unified's request for due process was ripe with regard to the three assessments for which Student's parents have not yet specifically requested independent educational evaluations.